

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE
THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

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William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W. - Room 222
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: In the Matter of Allocation of Costs Associated
with Local Exchange Carrier Provision of Video
Programming Services - CC Docket No. 96-112

Dear Secretary Caton:

Enclosed are an original and 11 copies of the comments
of the New York Department of Public Service in the above
referenced proceeding.

Respectfully submitted,

Mary E Burgess

Mary Burgess
Assistant Counsel

Enclosures

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ENCLOSURES
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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
Allocation of Costs Associated with)	CC Docket No. 96-112
Local Exchange Carrier Provision of)	
Video Programming Services)	

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INTRODUCTION

The New York State Department of Public Service (NYPDPS) hereby submits its comments in response to the Federal Communications Commission's (Commission) Notice of Proposed Rulemaking (Notice) regarding the allocation of costs associated with the local exchange carriers' provision of video programming services.

A primary goal of the 1996 Act is to foster accelerated competition in all telecommunications markets. To that end, the Act removed the prohibition against incumbent local exchange carriers' provision of video programming in their service areas. Because competition in the local exchange is only in its incipient stages, particularly with respect to video services, there remains much uncertainty as to the impact, extent, and timing of the emerging competition. Therefore, any cost allocation procedures adopted in this proceeding may need to be revised in the future as competition continues to evolve. We recommend that in its decision, the Commission direct that this proceeding be reopened periodically to review and revise cost

allocation procedures in response to emerging competition and as additional data and information become available.¹

METHOD OF ALLOCATION OF LOOP COSTS

The Notice seeks comment on the tentative conclusion that the Commission should prescribe a fixed factor for allocating loop plant common costs between regulated and nonregulated activities. (para. 42) The Notice concludes that various usage-based allocations for loop plant would preclude achievement of the best possible balance of goals and objectives discussed in Section V.A. of the Notice. (para. 40) These goals are threefold: to give effect to the provisions of the Act that facilitate the development of competitive telecommunications services, to give effect to the provisions relating to LEC entry into video distribution and programming services markets, and to ensure that ratepayers pay telephone rates that are just and reasonable. (para. 22)

The NYDPS concurs that a fixed factor may be the most appropriate method for allocating the costs of loop plant, in hybrid voice-grade and video programming systems, between regulated and nonregulated operations. It is generally not possible to directly assign the common loop costs among services in hybrid systems. Also, since loop plant is primarily non-

¹ Revisions to Part 64 resulting from this proceeding will likely have a significant impact on the cost allocation procedures and regulated revenue requirements of LECs. The Commission should consider such impacts as it formulates its decisions in this proceeding.

traffic sensitive, a usage-based cost allocation process generally would not result in cost-causative allocations. A simplified process employing fixed allocation factors would facilitate regulatory oversight and compliance reviews, would ease the cost and burden of administration to companies, and could be applied consistently among carriers. Application of a reasonable fixed allocation factor would protect ratepayers from bearing the costs and risks of local exchange carriers' nonregulated service offerings. However, it will be appropriate for the Commission to consider other cost allocation methodologies after the LECs enter the video services market. At that time, the extent to which the LECs are able to utilize existing loop facilities for video services will be clear, and the associated costs can be allocated more precisely.

SPECIFIC ALLOCATION FACTOR

The Notice seeks comment on specific allocation factors, such as 50 percent or some other factor, that would adequately split the costs of loop plant between regulated and nonregulated activities. (para. 39)

NYDPS believes that, initially, a 50 percent factor is not unreasonable for allocating non-traffic sensitive embedded costs of loop plant between regulated and nonregulated activities. Local exchange carriers have not yet begun extensive deployment of competitive video services. Thus, there is no meaningful basis on which to estimate the extent to which LECs

may use existing loop facilities to jointly provide regulated and nonregulated services. When competition and new nonregulated services develop, the relative allocation of shared loop facilities should be revisited. Until that time, a 50 percent loop cost allocation factor would reasonably address concerns regarding over-allocation of common loop costs to regulated ratepayers. In addition, that factor is not unreasonable for allocating spare fiber cable capacity

SUMMARY

For the reasons stated above, NYDPS believes that the Commission should allocate the costs of loop plant based on a fixed factor, and that a factor of 50% is reasonable. In addition, the allocation methodology and specific factor should be re-examined after the LECs have begun to provide video programming services.

Respectfully Submitted,

Maureen Helmer / PBR
MAUREEN O. HELMER
General Counsel
New York State Department
of Public Service
Albany, New York 12223
(518) 473-8123

Of Counsel:
Mary Burgess

Dated: May 24, 1996
Albany, New York

FCC COMPACT LIST

James Lanni
Rhode Island Division
of Public Utilities
100 Orange Street
Providence, RI 02903

Charles F. Larken
Vermont Department
of Public Service
120 State Street
Montpelier, VT 05602

Keikki Leesment
New Jersey Board
of Public Utilities
2 Gateway Center
Newark, NJ 07102

Veronica A. Smith
Deputy Chief Counsel
Pennsylvania Public
Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

Telecommunications Report
1333 H Street, N.W. - 11th Floor
West Tower
Washington, D.C. 20005

Joel B. Shifman
Maine Public Utility
Commission
State House Station 18
Augusta, ME 04865

Rita Barmen
Vermont Public Service Board
89 Main Street
Montpelier, VT 05602

Eileen E. Huggard, Esq.
NYC Department of Energy
and Telecommunications
75 Park Place - 6th Floor
New York, NY 10007

Mary J. Sisak
District of Columbia
Public Service Commission
Suite 800
450 Fifth Street
Washington, D.C. 20001

Ronald Choura
Michigan Public Service
Commission
6545 Mercantile Way
Lansing, MI 48910

Mary Street
Iowa Utilities Board
Lucas Building
5th Floor
Des Moines, IA 50316

Sam Loudenslager
Arkansas Public Service
Commission
1200 Center Street
P. O. Box C-400
Little Rock, AR 72203

Marsha H. Smith
Idaho Public Utilities
Commission
Statehouse
Boise, ID 83720

Edward Morrison
Oregon Public Utilities
Commission
Labor and Industries Bldg.
Room 330
Salem, OR 97310

Gary Evenson
Wisconsin Public Service
Commission
P. O. Box 7854
Madison, WI 53707

Gordon L. Persinger
Missouri Public Service
Commission
P. O. Box 360
Jefferson City, MO 65102

Jane P. Olsen
Senior Assistant
General Counsel
Oklahoma Corp. Commission
400 Jim Thorpe Building
Oklahoma City, OK 73105

Ellen Levine
Public Utilities Commission
of the State of California
505 Van Ness Avenue
San Francisco, CA 94102

Judith St. Ledger-Roty
Pierson, Ball & Dowd
1200 18th Street, N.W.
Washington, D.C. 20036

International Transcription
Services, Inc.
2100 M Street, N.W.
Suite 140
Washington, D.C. 20037

William Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Camille Stonehill
State Telephone Regulation
Report
1101 King Street - Suite 444
Alexandria, VA 22314

Alabama Public Service
Commission
1 Court Square - Suite 117
Montgomery, AL 36104

Sany Ibaugh
Indian Utility Regulatory
Commission
901 State Office Bldg.
Indianapolis, IN 46204

Brad Ramsay
NARUC
Interstate Commerce
Commission Bldg., Room 1102
12th & Constitution St., N.W.
Washington, D.C. 20044

Richard Metzger
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Greg Krasovsky
Associate General Counsel
Florida Public Service
Commission
101 East Gaines Street
Tallahassee, FL 32301

Archie R. Hickerson
Tennessee Public Service
Commission
460 James Robertson Pkwy.
Nashville, TN 37219

Kath Thomas
Washington U&TC
1300 S. Evergreen Park Dr., S.W.
P. O. Box 47250
Olympia, WA 98504-7250

Policy and Planning Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 544
Washington, D.C. 20554

Myra Karegianes
General Counsel
Illinois Commerce Commission
State of Illinois Building
160 No. LaSalle - Suite C-800
Chicago, IL 60601-3104

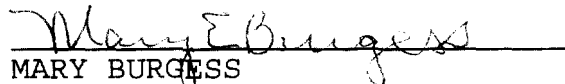
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CC Docket No. 96-112

Allocation of Costs Associated With
Local Exchange Carrier Provision of
Video Programming Services

CERTIFICATE OF SERVICE

I hereby certify that an original plus eleven copies of the comments of the New York Public Service Commission in the above referenced proceeding were sent via Airborne Express to Mr. Caton, and by first class United States mail, postage prepaid, to all parties on the attached service list.


MARY BURGESS
Assistant Counsel
Office of General Counsel
NYS Department of Public Service
Albany, New York 12223
(518) 474-1585